

# Notice of Allowability

Application No.

10/014,658

Examiner

Holly Schnizer

Applicant(s)

BOCK ET AL.

Art Unit

1653

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response and amendment filed 8/11/04.
2. ☒ The allowed claim(s) is/are 50-187.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 8/11/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Huizenga on October 26, 2004.

The application has been amended as follows:

#### IN THE CLAIMS:

In Claim 50, at line 7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 53, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least <sup>1</sup>as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 56, lines 7-8, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the

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elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 60, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 63, lines 6-7, please replace the phrase "wherein the lactase-resistant ATIII is at least as resistant to lactase as plasma ATIII" with the phrase --wherein the resistant-resistant ATIII has greater resistance to human neutrophil lactase as compared to plasma ATIII--.

In Claim 64, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

65. (Amended) An elastase-resistant antithrombin III ~~comprising an~~ wherein the amino acid sequence of at residues 387-391 ~~of~~ according to SEQ ID NO:35 is substituted with the amino acid sequence of, ~~wherein residues 387-391 are the~~ sequence ~~corresponding to~~ residues 3 through 7 of SEQ ID NO:4, wherein the elastase-resistant ATIII has greater resistance to human neutrophil ~~is at least as resistant to~~ elastase as compared to plasma ATIII.

66. (Amended) An resistant-resistant antithrombin III ~~comprising an~~ wherein the amino acid sequence of at residues 387-391 ~~of~~ according to SEQ ID NO:35 is substituted with the amino acid sequence of, ~~wherein residues 387-391 are the~~ sequence ~~corresponding to~~ residues 3 through 7 of SEQ ID NO:5, wherein the resistant-resistant ATIII has greater resistance to human neutrophil ~~is at least as resistant to~~ lactase as compared to plasma ATIII.

In Claim 67, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 68, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 69, line 6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 75, lines 7-8, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the

elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 78, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 81, lines 7-8, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 85, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 88, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 89, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to lactase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 90, lines 6-7, please replace the phrase “wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII” with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 91, lines 5-6, please replace the phrase “wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII” with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 92, line 6, please replace the phrase “wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII” with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 98, lines 7-8, please replace the phrase “wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII” with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 101, lines 8-9, please replace the phrase “wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII” with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 104, lines 7-8, please replace the phrase “wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII” with the phrase –wherein the

elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 108, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 111, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 112, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 113, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 114, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 115, line 6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the resistant-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 121, line 7-8, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 124, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 127, lines 7-8, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 131, lines 8-9, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 134, lines 6-7, please replace the phrase "wherein the resistant-resistant ATIII is at least as resistant to lactase as plasma ATIII" with the phrase –wherein the



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resistant-resistant ATIII has greater resistance to human neutrophil lactase as compared to plasma ATIII--.

In Claim 135, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 136, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 137, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 138, line 6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 144, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the resistant-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 150, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 156, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 162, lines 6-7, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 168, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 169, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 170, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase –wherein the

elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

In Claim 171, lines 5-6, please replace the phrase "wherein the elastase-resistant ATIII is at least as resistant to elastase as plasma ATIII" with the phrase --wherein the elastase-resistant ATIII has greater resistance to human neutrophil elastase as compared to plasma ATIII--.

### ***Conclusions***

Claims 50-187 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Schnizer whose telephone number is (571) 272-0958. The examiner can normally be reached on Monday through Wednesday from 8 am to 5:30 pm.

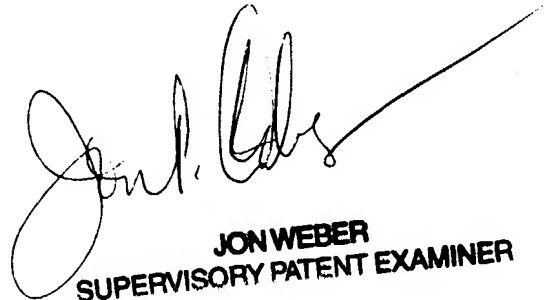
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Holly Schnizer  
October 26, 2004



**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**